

SCHAPIRO DECLARATION EXHIBITS CONTINUED

Schapiro Exhibit 43

From: Apmann, Todd <Todd.Apmann@mtvstaff.com>
Date: Fri, 4 Aug 2006 13:01:04 -0400
To: Zan, Koethi <Koethi.Zan@mtvstaff.com>, Shaw, Daniel <Daniel.Shaw@mtvstaff.com>
Cc: Kauffman, Stuart <Stuart.Kauffman@mtvstaff.com>, Dolnick, Randy <Randy.Dolnick@mtvstaff.com>, Horwitz, Julie <Julie.Horwitz@mtvstaff.com>
Subject: RE: Draft to YOUTUBE

yes absolutely.

From: Zan, Koethi
Sent: Friday, August 04, 2006 1:01 PM
To: Apmann, Todd; Shaw, Daniel
Cc: Kauffman, Stuart; Dolnick, Randy; Horwitz, Julie
Subject: RE: Draft to YOUTUBE

All of BALA will need this info – I have already had 3-4 instances of this happening. Will you be our go-to person so that when anyone gets this call from the clients, we can check in with you?

From: Apmann, Todd
Sent: Friday, August 04, 2006 12:53 PM
To: Zan, Koethi; Shaw, Daniel
Cc: Kauffman, Stuart; VanPelt, Elizabeth; Dolnick, Randy; Horwitz, Julie
Subject: RE: Draft to YOUTUBE

yes. and i can give you a heads up of specific projects when they happen so you are all aware of everything.

From: Zan, Koethi
Sent: Friday, August 04, 2006 12:52 PM
To: Apmann, Todd; Shaw, Daniel
Cc: Kauffman, Stuart; VanPelt, Elizabeth; Dolnick, Randy; Horwitz, Julie
Subject: RE: Draft to YOUTUBE

So this means that if our client groups tell us that they see their shows on Youtube & we find out from Youtube that they got the content from these individuals/companies, then we know it is authorized?

From: Apmann, Todd
Sent: Friday, August 04, 2006 12:49 PM
To: Shaw, Daniel; Zan, Koethi
Cc: Kauffman, Stuart; VanPelt, Elizabeth; Dolnick, Randy; Horwitz, Julie
Subject: RE: Draft to YOUTUBE

Thanks everyone. Sorry this has taken so long to get to you, but here are the people who are OK to upload MTV content to YouTube (we'll obviously make sure that everything is cleared):

Promotion Companies

Wired Set
Special Ops
Cornerstone Promotion
Total Assault
Filter Creative Group
Fanscape
ADD Marketing
Individuals
Damon Johnson
Marissa Grasso
Stephanie Snodgrass

I'll make sure to add anyone who's doing promotions for us in the future. Let me know if you have any questions.

Thanks!

From: Shaw, Daniel
Sent: Monday, June 19, 2006 4:08 PM
To: Zan, Koethi
Cc: Kauffman, Stuart; VanPelt, Elizabeth; Apmann, Todd; Dolnick, Randy; Horwitz, Julie
Subject: RE: Draft to YOUTUBE

Hello,

These two Hills trailers were uploaded at MTV's request by Wiredset. Todd Apman from promotions has confirmed this. Todd is going to send us a list of other clips that were also uploaded to various sites at our request.

Hope this helps.

From: Shaw, Daniel
Sent: Monday, June 19, 2006 4:01 PM
To: Zan, Koethi
Cc: Kauffman, Stuart; VanPelt, Elizabeth
Subject: RE: Draft to YOUTUBE

I checked with Randy Dolnick and she's never heard of Wiredset. I have a call into our program promotions department to see if they know. I'll get back to you with what I find out.

From: Shaw, Daniel

Sent: Monday, June 19, 2006 4:00 PM
To: Zan, Koethi
Cc: Kauffman, Stuart; VanPelt, Elizabeth
Subject: RE: Draft to YOUTUBE

From: Zan, Koethi
Sent: Monday, June 19, 2006 3:51 PM
To: Shaw, Daniel
Cc: Kauffman, Stuart; VanPelt, Elizabeth
Subject: FW: Draft to YOUTUBE

Who can tell us whether we've licensed any rights to this footage to wiredset? I doubt we have licensed any at all. This is for The Hills & 8th & Ocean.

From: heather gillette [mailto:heather@youtube.com]
Sent: Friday, June 16, 2006 7:04 PM
To: Kauffman, Stuart
Cc: Zan, Koethi
Subject: RE: Draft to YOUTUBE

Dear Mr. Kauffman,

I removed all of the videos that appeared to be that of MTV's using the search link provided, other than two. Two of the videos in the search link are hosted by a marketing company called: Wiredset

Do they have the rights to post this content? The two videos in question are here:

<http://www.youtube.com/watch?v=XUURN3-LXh4>

<http://www.youtube.com/watch?v=Gg7K91wP5gE>

Please let me know whether you are claiming infringement for the above videos.

Thank you!

Heather Gillette

Copyright Agent

YouTube, Inc.

From: Kauffman, Stuart [mailto:Stuart.Kauffman@mtvstaff.com]
Sent: Friday, June 16, 2006 9:46 AM
To: copyright@youtube.com
Cc: Zan, Koethi
Subject: FW: Draft to YOUTUBE

June 16, 2006

Via Email (copyright@youtube.com)

DMCA Complaints and/or Heather Gillette
Youtube.com
71 E. Third Avenue
2nd Floor
San Mateo CA 94401

Re: URGENT – Notice of Infringement
"The Hills" and "8th and Ocean"

To Whom It May Concern:

I write to notify you of an infringement of MTV Networks' ("MTVN") intellectual property rights on youtube.com, and to insist that you take immediate action to cease such infringement.

MTVN owns and operates the television programming service MTV, and is the owner of exclusive rights protected under copyright law and other intellectual property rights in the MTV television series "The Hills" and "8th and Ocean" (the "Series").

We have become aware that unauthorized versions of recent episodes of the Series are available on your website at the following links: <http://www.youtube.com/results?search=mtv+the+hills+> <http://www.youtube.com/results?search=mtv+the+hills+&search_type=search_videos>
&[search_type=search_videos](http://www.youtube.com/profile?user=Raze71); <http://www.youtube.com/profile?user=Raze71>.

MTVN did not authorize the distribution of this material, and as a result, such distribution is infringing and unlawful.

MTVN insists that you immediately remove and disable access to the above-referenced material – whether at the above referenced links or elsewhere. MTVN further insists that you immediately destroy any and all unauthorized reproductions of such within your possession, custody or control. Please confirm your compliance with these demands within one day of your receipt of this correspondence.

The undersigned has a good faith belief that use of the material in the manner described herein is not authorized by MTVN, its agents or the law. The information in this notice is accurate. And, under penalty of perjury, the undersigned is authorized to act on behalf of MTVN with respect to this matter.

Please note that this letter is not intended as a full statement of the facts, and is without waiver of any rights and remedies – all of which are expressly reserved.

Very truly yours,

/s/

Stuart Kauffman
Senior Counsel, Intellectual Property
& Litigation
MTV Networks
1515 Broadway, 34-55
New York, NY 10036
T. 212.846-3543
F. 646.688.6849
E. stuart.kauffman@mtvstaff.com

Privileged & Confidential Attorney Client Communication. Do Not Disclose.

Click to add my contact info to your organizer:
<<http://my.infotriever.com/vh6gt1sl>> <http://my.infotriever.com/vh6gt1sl>

Schapiro Exhibit 44

From: McCall.Shelly@mtvne.com
Sent: Friday, October 27, 2006 12:20 PM
To: wignall.leila1@mtvne.com; James.Roger@mtvne.com
Subject: RE: EMA Awards questions

Hello Roger,
These clips were seeded onto You tube by a company called T viral on our behalf - do we need to take them down?
It was

<https://sftp.mtvne.com/~mtvnidigital/ema/tviral/>

Here are where all the clips were which were seeded

1. Justin Timberlake host spot
2. Juliette & licks digital promo
3. Juliette & licks freaking Logon promo - made by dm ream
4. Juliette & licks telling Justin to bring it on - made by DM team



From: Hiran-Mutraporn, Rapeepan
Sent: 27 October 2006 13:14
To: McCall, Shelly
Subject: FW: EMA Awards questions

From: Wignall, Leila
Sent: 27 October 2006 12:45
To: James, Roger; Murphy, Sean
Cc: Hiran-Mutraporn, Rapeepan
Subject: RE: EMA Awards questions

Hi Roger
Here you go. I don't have much info about Post show yet, but maybe Sean can help xx

JT spot is just called **EMA 2006 Host Spot**

INT'L Creative only made 1 x Juliette Lewis spot - this was called **EMA Digital Media spot** (the names aren't really that specific as they don't appear on the spots themselves)
I think online made some further clips for their viral campaign - I've cc'd Pip who should be able to help with those.

Attached Red Carpet rundown - again Sean can give you any more info not on there.

6/11/2008

X

From: James, Roger
Sent: 27 October 2006 12:19
To: Wignall, Leila
Subject: FW: EMA Awards questions
Importance: High

Hi Leila

Can you help here - I need the exact name of the JT Host spot and the 3x Juliette and The Licks spots.

Also any info about the pre/post shows that will enable this agency to monitor our content on YouTube.

R

-----Original Message-----

From: Deana Arizala [mailto:deanaa@baytsp.com]
Sent: 27 October 2006 00:54
To: Rimboeck, Leslie; Michelena.hallie@mtvn.com
Cc: Morales, Cindy; Mark M. Ishikawa; Evelyn Espinosa; McCormack, Lisa - MTVNE; Ioannou, Sofia; James, Roger - MTVNE; Courtney Nieman
Subject: EMA Awards questions
Importance: High

Leslie and Team,

Thanks for helping out. The information is very helpful. I do have some additional question.

- 1) For Justin Timberlake Host Spot and 3X Juliette & The Licks Web Show Spots that should be **ignored** in YouTube, are you able to provide us the **username** that posted those promotional clips? Also, the "exact" title for the video clips would be good as well. This will make it easier to filter out these promo clips.
- 2) If you have any information about the pre/post EMA shows Red Carpet performances, please provide us with any updates

Thanks all.

Best Regards,
Deana Arizala

Deana Arizala
Client Services Manager. BayTSP, Inc
408.341.2365 (direct)
408.341.2300 (voice)
408.341.2399 (fax)

-----Original Message-----

From: Rimboeck, Leslie [mailto:Leslie.Rimboeck@mtvstaff.com]
Sent: Thursday, October 26, 2006 11:01 AM
To: Michelena.hallie@mtvn.com; Deana Arizala
Cc: Morales, Cindy

6/11/2008

BAYTSP 001125132

Subject: RE: Scan from a Xerox WorkCentre Pro

Sure -

Just let me know what you need and I will see what I can do.

Thanks.

...leslie
212.258.7230

-----Original Message-----

From: Hallie, Michelena
Sent: Thursday, October 26, 2006 1:59 PM
To: Rimboeck, Leslie; deanaa@baytsp.com
Cc: Morales, Cindy
Subject: FW: Scan from a Xerox WorkCentre Pro

Thank you Leslie. I received your material which I have put in a pdf attachment. Unfortunately, I'm not sure this is enough information to avoid taking down our licensed product. However, that may be because I don't know how to interpret your information. Deana is our contact at Bay Tsp and can tell us if this is what she needs. If she needs more, perhaps you can work together to figure out how to obtain it.

Michelena Hallie
Senior Vice President
Deputy General Counsel, Intellectual Property MTV Networks, Business and Legal Affairs
1515 Broadway, 34th Floor
New York, New York 10036
[REDACTED]

-----Original Message-----

From: Xerox1515_34_07@viacom.com [mailto:Xerox1515_34_07@viacom.com]
Sent: Thursday, October 26, 2006 12:30 PM
To: Hallie, Michelena
Subject: Scan from a Xerox WorkCentre Pro

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre Pro.

Sent by: Guest [Xerox1515_34_07@viacom.com] Number of Images: 7
Attachment File Type: PDF

WorkCentre Pro Location: Xerox1515_34_07

For more information on Xerox products and solutions, please visit
<http://www.xerox.com>

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 001125133

Schapiro Exhibit 45

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

x

VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,

vs. NO. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

x

THE FOOTBALL ASSOCIATION PREMIER
LEAGUE LIMITED, BOURNE CO., et al.,
On behalf of themselves and all
Others similarly situated,

Plaintiffs,

vs.

NO. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC, and
GOOGLE, INC.,

Defendants.

x

VIDEOTAPED DEPOSITION OF DAMON BURRELL
NEW YORK, NEW YORK
TUESDAY, APRIL 14, 2009

JOB NO.: 16730

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212) 705-8585

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4

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APRIL 14, 2009

8

10:09 a.m.

9

10

11 VIDEOTAPED DEPOSITION OF DAMON
12 BURRELL, held at the offices of WILSON
13 SONSINI GOODRICH & ROSATI, PC, 1301 Avenue of
14 the Americas, New York, New York, pursuant to
15 notice, before JENNIFER OCAMPO-GUZMAN, a
16 Shorthand Reporter and Notary Public of the
17 State of New York.

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DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212)705-8585

1

2 A P P E A R A N C E S:

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL,

4 INC.:

5 JENNER & BLOCK, LLP

6 By: SCOTT B. WILKENS, Esq.

7 1099 New York Avenue, NW, Suite 900

8 Washington, D.C. 20001

9 (202) 639-6000 swilkens@jenner.com

10

11

12 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE,

13 LLC and GOOGLE, INC.:

14 WILSON SONSINI GOODRICH & ROSATI, PC

15 BY: BART E. VOLKMER, ESQ.

16 650 Page Mill Road

17 Palo Alto, California 94304-1050

18 650-565-3508 bvolkmer@wsgr.com

19

20 ALSO PRESENT:

21 MARCELO RIVERA, Videographer

22

23

24

25

DAVID FELDMAN WORLDWIDE, INC.

805 Third Avenue, New York, New York 10022 (212) 705-8585

1 Burrell
10:44:47 2 Q. Can you tell me which third-party
10:45:07 3 marketing agencies MTV has engaged to upload
10:45:12 4 materials to YouTube?
10:45:13 5 MR. WILKENS: Objection.
10:45:17 6 A. I can't recall.
10:45:22 7 Q. Why does MTV sometimes engage
10:45:38 8 third-party agencies to engage in viral
10:45:40 9 marketing, and sometimes MTV does that work
10:45:43 10 in-house; why the difference?
10:45:45 11 MR. WILKENS: Objection.
10:45:47 12 A. I don't understand your question.
10:45:48 13 Q. Okay. Sometimes MTV will engage
10:45:52 14 third-party viral marketing companies like
10:45:57 15 Wiredset and Fanscape to promote MTV
10:46:01 16 materials, and sometimes MTV does that
10:46:03 17 internally.
10:46:03 18 And the question is, why does MTV
10:46:06 19 sometimes choose to engage third parties, and
10:46:08 20 sometimes it chooses to do the work in-house?
10:46:10 21 MR. WILKENS: Objection, lack of
10:46:16 22 foundation.
10:46:16 23 A. We use third-party agencies due to
10:46:21 24 lack of resources.
10:46:22 25 Q. Any other reasons?

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212) 705-8585

1 Burrell
10:46:34 2 A. Not that I can recall.
10:46:36 3 Q. Can you name for me the third-party
10:47:02 4 agencies that MTV has hired to engage in
10:47:06 5 viral marketing?
10:47:10 6 A. Wiredset, Fanscape, M80, Red
10:47:27 7 Interactive, Carat Fusion, Deep Focus.
10:47:52 8 That's all I can remember.
10:47:53 9 Q. After M80, you said Red
10:47:58 10 Interactive?
10:47:58 11 A. I don't know if I said it before or
10:47:59 12 after, but that's one.
10:48:00 13 Q. And the other one was Carat Fusion;
10:48:03 14 can you spell that for me?
10:48:05 15 A. C-A-R-A-T.
10:48:10 16 Q. Is there someone at MTV who is the
10:48:21 17 person in charge of the relationship with
10:48:26 18 Fanscape, currently?
10:48:29 19 A. It varies.
10:48:34 20 Q. Who are those people, as you sit
10:48:43 21 here today, that are in charge of the
10:48:44 22 relationship with Fanscape?
10:48:48 23 A. The people on my team.
10:48:52 24 Q. There's not one person who is
10:49:00 25 responsible for the relationship?

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212) 705-8585

1 Burrell
10:49:02 2 MR. WILKENS: Objection.
10:49:05 3 A. The people on my team.
10:49:10 4 Q. They all share equally in the
10:49:15 5 responsibilities in managing that
10:49:17 6 relationship?
10:49:19 7 A. Yes.
10:49:20 8 Q. Do you know who signed the most
10:49:26 9 recent contract with Fanscape?
10:49:28 10 MR. WILKENS: Objection.
10:49:29 11 A. I can't remember.
10:49:38 12 Q. What would be your best guess as to
10:49:44 13 who that person is that would have signed the
10:49:46 14 contract with Fanscape?
10:49:47 15 MR. WILKENS: Objection.
10:49:48 16 A. Again, I can't remember.
10:49:52 17 Q. Right, but you have a lot more
10:49:55 18 intimate knowledge of the department than I
10:49:57 19 do, and the question is: Who, in your
10:49:59 20 estimation, in your best guess, would be the
10:50:01 21 person who signed that contract with
10:50:03 22 Fanscape?
10:50:04 23 MR. WILKENS: Objection. And I
10:50:05 24 move to strike the argumentative part of
10:50:08 25 that.

DAVID FELDMAN WORLDWIDE, INC.
805 Third Avenue, New York, New York 10022 (212) 705-8585

Schapiro Exhibit 46

Subject: Disturbia / Paris
From: "Tipton, Kristina - Paramount" <EX:/O=VIACOM/OU=PARAMOUNT/CN=RECIPIENTS/CN=TIPTONKR>
To: Bonnici, Kyle - Paramount
Cc: Teifeld, Tamar - Paramount; Wahtera, Megan - Paramount
Date: Mon, 11 Jun 2007 20:57:34 +0000

Hi Kyle,

As soon as your back, we need help with uploading the below video to viral video sites.

- please create NON-PARAMOUNT accounts using email that can't be traced to Paramount (ie create an account)
- Upload video with following info:
 - o Title: Paris Hilton on house arrest
 - o Description: Ankle bracelets are hot
 - o Tags: Paris Hilton jail house arrest hot funny disturbia
 - o Post as video response to:
 - * <http://youtube.com/watch?v=k66epna2Sss>
 - * <http://youtube.com/watch?v=4yjRLrZfln8>
 - * <http://youtube.com/watch?v=EXFsxuuUjGM>

Link:
<http://secure.wiredrive.com/clients/buddhajonestrailers/wd/folder/55341/list>

[REDACTED]

This is top priority, so please do this before media meeting prep. Thanks, Kyle!

Kristina Tipton

Interactive Marketing

Paramount Pictures

323-956-8453

Schapiro Exhibit 47

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X

VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,
vs.

No. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

-----X

THE FOOTBALL ASSOCIATION PREMIER
LEAGUE LIMITED, BOURNE CO., et al.,
on behalf of themselves and
all others similarly situated,

Plaintiffs,
vs.

No. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

-----X

HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF MEGAN WAHTERA
SAN FRANCISCO, CALIFORNIA
FRIDAY, DECEMBER 4, 2009

JOB NO. 18262

2

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009

2 DECEMBER 4, 2009

3 10:27 A.M.

4

5 HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF MEGAN
6 WAHTERA, at WILSON SONSINI GOODRICH & ROSATI, 1 Market
7 Plaza, San Francisco, California, pursuant to notice,
8 before me, KATHERINE E. LAUSTER, CLR, CRR, RPR, CSR
9 License No. 1894.

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1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2

3 A P P E A R A N C E S:
4

5 FOR THE PLAINTIFFS, VIACOM INTERNATIONAL, INC., and
6 the WITNESS:
7

8 JENNER & BLOCK, LLP
9 By: SCOTT B. WILKENS, ESQ.
10 1099 New York Avenue, NW
11 Suite 900
12 Washington, DC 20001
13 T.202.639.6000
14 F.202.661.4832
15 swilkens@jenner.com
16

17 and
18

19 PARAMOUNT PICTURES MOTION PICTURE GROUP
20 INTERACTIVE MARKETING
21 By: PAUL KOENIG, ESQ.
22 5555 Melrose Avenue
23 Hollywood, California 90038-3197
24 T.323.956.5882
25 F.323.862.2875
paul_koenig@paramount.com
16

17 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC, and
18 GOOGLE, INC.:
19

20 WILSON, SONSINI, GOODRICH & ROSATI
21 By: MICHAEL H. RUBIN, ESQ.
22 CAROLINE WILSON, ESQ.
23 650 Page Mill Road
24 Palo Alto, California 94304-1050
25 T.650.493.9300
F.650.493.6811
mrubin@wsgr.com
cwilson@wsgr.com
21

22 Also Present: JOSEPH SKORMAN, Videographer
23
24
25

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 11:03:15 BY MR. RUBIN:
3 11:03:16 Q. And that is what happened here; right?
4 11:03:17 A. It appears so, from the e-mail, but I'm
5 11:03:19 not sure, because I just can't remember the piece of
6 11:03:22 content.
7 11:03:25 Q. Can you imagine any piece of content that
8 11:03:28 you could have provided to Real Pie Media that
9 11:03:33 wouldn't have been authorized?
10 11:03:36 A. No.
11 11:03:36 MR. WILKENS: Objection to the form, calls
12 11:03:37 for speculation.
13 11:03:38 BY MR. RUBIN:
14 11:03:39 Q. So is there any conclusion to draw from
15 11:03:40 this e-mail, other than the fact the content was
16 11:03:42 authorized to be on YouTube?
17 11:03:45 MR. WILKENS: Objection to the form.
18 11:03:45 THE WITNESS: No, I don't -- from reading
19 11:03:47 this e-mail, I can't think of any reason why it
20 11:03:50 wouldn't be approved content, but I can't recall
21 11:03:54 this -- I cannot recall what happened on this
22 11:03:58 e-mail. I can only read the e-mail.
23 11:04:00 BY MR. RUBIN:
24 11:04:06 Q. Do you doubt the authenticity or the
25 11:04:08 accuracy of your words in Exhibit 1?

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 11:04:12 A. No, I don't.
3 11:04:13 Q. Do you have any reason to question what
4 11:04:15 you wrote in Exhibit 1?
5 11:04:16 A. I don't.
6 11:04:17 Q. Do you have any reason to question what
7 11:04:19 Amy Powell wrote in Exhibit 1?
8 11:04:20 A. I don't.
9 11:04:22 Q. Do you have any reason to question what
10 11:04:24 Zach Braff wrote in Exhibit 1?
11 11:04:26 A. No, except for that Zach Braff had a
12 11:04:29 history of uploading content himself that was not
13 11:04:32 always approved.
14 11:04:33 Q. So if Zach Braff uploaded content to
15 11:04:37 YouTube --
16 11:04:38 A. Uh-huh.
17 11:04:38 Q. -- it was not authorized content?
18 11:04:40 A. I'd have to -- to definitively say yes or
19 11:04:43 no, I'd have to know the circumstance, but there was
20 11:04:46 an occasion that I can recall, I just can't remember
21 11:04:49 exactly what it was, but he did upload content, as
22 11:04:52 he had access to the film that had not gone through
23 11:04:54 the normal approval process.
24 11:04:56 Q. What would you need to know --
25 11:04:57 A. Uh-huh.

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009

2 11:04:58 Q. -- about the video clip that Zach Braff

3 11:05:00 uploaded --

4 11:05:01 A. Uh-huh.

5 11:05:02 Q. -- to determine whether or not it was

6 11:05:04 approved content?

7 11:05:05 A. In what I just described or in this

8 11:05:06 e-mail?

9 11:05:07 Q. What you just described.

10 11:05:09 A. Music licensing rate, whether the talent

11 11:05:11 had agreed that they could be featured in a clip for

12 11:05:15 promotional uses, and whether it had just internal

13 11:05:18 sign-off from higher executives. Or -- there's an

14 11:05:22 array of approval processes that usually take place.

15 11:05:26 Q. An array of internal Paramount approval

16 11:05:29 processes that take place?

17 11:05:31 A. Internal and external, yes.

18 11:05:33 Q. But to a third party --

19 11:05:34 A. Uh-huh.

20 11:05:34 Q. -- how would a third party distinguish

21 11:05:37 between a clip that you, Megan Wahtera, or --

22 11:05:42 A. Uh-huh.

23 11:05:43 Q. -- another Paramount individual authorized

24 11:05:45 for upload and one that Zach Braff selected for the

25 11:05:49 film and uploaded.

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 11:05:51 MR. WILKENS: Objection to the form.
3 11:05:52 THE WITNESS: What third party?
4 11:05:53 BY MR. RUBIN:
5 11:05:54 Q. YouTube, for example.
6 11:05:55 MR. WILKENS: Objection to the form, calls
7 11:05:56 for speculation.
8 11:05:57 THE WITNESS: I don't know YouTube -- I
9 11:05:58 don't know their practices and how they
10 11:06:00 differentiate between what's approved and what's
11 11:06:03 not.
12 11:06:04 BY MR. RUBIN:
13 11:06:04 Q. I'm asking, though, if YouTube doesn't
14 11:06:06 have access to the internal policies that Paramount
15 11:06:09 has to distinguish between an -- one approved clip
16 11:06:11 from another --
17 11:06:13 A. Uh-huh.
18 11:06:13 Q. -- how would YouTube be in a position to
19 11:06:15 even make the decision?
20 11:06:16 MR. WILKENS: Objection to the form, calls
21 11:06:17 for speculation.
22 11:06:19 THE WITNESS: Again, it's just my opinion,
23 11:06:20 but we were in contact with YouTube pretty
24 11:06:24 regularly. We had a long-standing relationship with
25 11:06:27 them, so I would just call and ask about it.

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 13:27:02 A. I'm just giving you my opinion. I don't
3 13:27:04 know how YouTube figures out what is and isn't
4 13:27:07 authorized.
5 13:27:08 Q. Do you think it's YouTube's job to figure
6 13:27:10 out what is and isn't authorized?
7 13:27:12 A. I don't know. It's not my place to say.
8 13:27:15 Q. What is your opinion?
9 13:27:17 MR. WILKENS: Objection to the form.
10 13:27:17 THE WITNESS: I don't have an opinion.
11 13:27:18 BY MR. RUBIN:
12 13:27:18 Q. You don't have an opinion?
13 13:27:19 A. I really don't. I would prefer not to
14 13:27:21 have an opinion. I don't -- I -- I do not work at
15 13:27:23 YouTube. I do not police content. It's not in my
16 13:27:26 responsibility.
17 13:27:27 Q. This isn't -- this -- I don't mean to be
18 13:27:29 argumentative --
19 13:27:29 A. I understand.
20 13:27:30 Q. -- and I'm not trying to be, but today is
21 13:27:32 not about whether you choose to have an opinion or
22 13:27:35 not. I'm asking what your opinion is.
23 13:27:38 A. I don't have one.
24 13:27:39 Q. Do you believe it's YouTube's ob- --
25 13:27:41 YouTube's obligation to police the content on that

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 13:27:45 service?
3 13:27:45 MR. WILKENS: Objection to the form of the
4 13:27:45 question.
5 13:27:45 THE WITNESS: I do not have an opinion. I
6 13:27:47 do not know if it is their responsibility. I have
7 13:27:47 no idea.
8 13:27:48 BY MR. RUBIN:
9 13:27:48 Q. Do you think they should?
10 13:27:49 A. I have no idea, don't have an opinion.
11 13:27:53 Q. Do you think Paramount should police the
12 13:27:55 content on the YouTube service?
13 13:27:57 MR. WILKENS: Objection to the form.
14 13:27:58 THE WITNESS: I don't know. It's not my
15 13:28:00 job to say so.
16 13:28:01 BY MR. RUBIN:
17 13:28:01 Q. And you have no opinion on it?
18 13:28:02 A. I do not have an opinion.
19 13:28:12 Q. From where did you upload this video?
20 13:28:15 A. I uploaded this video off site, so off
21 13:28:19 lot, Paramount, to -- from an IP address. I believe
22 13:28:23 it was like a FedEx, or a Kinko's, or one of those
23 13:28:24 types of places.
24 13:28:25 Q. Why would you have done that?
25 13:28:27 A. For the same reason I just referenced with

1 MEGAN WAHTERA SAN FRANCISCO, CA DECEMBER 4, 2009
2 13:28:29 registering an e-mail account. Often, I have heard,
3 13:28:32 or -- I can't prove that -- but that there's ways to
4 13:28:35 tell different IP addresses in uploading a clip,
5 13:28:38 where it's coming from.
6 13:28:40 Q. Is there any evidence in your possession
7 13:28:41 that you can think of -- any documents, any e-mails,
8 13:28:44 anything that would support your belief -- your
9 13:28:47 statement that you believe that third parties can
10 13:28:49 discern the e-mail address or the IP address from
11 13:28:52 which a video is uploaded --
12 13:28:54 A. I don't know.
13 13:28:55 Q. -- by simply viewing the video?
14 13:28:57 A. I don't know.
15 13:28:58 Q. You don't know.
16 13:28:59 A. I don't know if I've ever gotten e-mail on
17 13:29:03 that.
18 13:29:04 Q. You don't know whether you've ever
19 13:29:06 discussed it with anyone else?
20 13:29:08 A. I don't know.
21 13:29:09 Q. It's a rumor you heard?
22 13:29:15 A. I work in an interac- -- interactive
23 13:29:17 marketing, so I know like my tech team can tell me
24 13:29:20 what IP address is -- stuff is being uploaded from
25 13:29:23 all the time. So it's just something -- a practice

Schapiro Exhibit 48

Subject: Re: Geek Giftst
From: "Powell, Amy - Paramount" [REDACTED]
To: Wahtera, Megan - Paramount; Teifeld, Tamar - Paramount
Cc: Date: Wed, 03 Oct 2007 16:24:16 +0000

Is there any place else to place it behind on a different site?

----- Original Message -----

From: Wahtera, Megan - Paramount
To: Powell, Amy - Paramount; Teifeld, Tamar - Paramount
Sent: Wed Oct 03 09:23:13 2007
Subject: RE: Geek Giftst

Hi Amy,

As discussed, I don't see how we can put it behind an age gate.
That is something youtube does when content is flagged as inappropriate.

TT - let's call Youtube to see how this can be done for us.

I am also calling Michael Jones to pull the clip.

Thanks,
Megan

-----Original Message-----

From: Powell, Amy - Paramount
Sent: Wednesday, October 03, 2007 8:55 AM
To: Wahtera, Megan - Paramount; Teifeld, Tamar - Paramount
Subject: Re: Geek Giftst

Can we put behind age gate on youtube?

----- Original Message -----

From: Wahtera, Megan - Paramount
To: Powell, Amy - Paramount; Teifeld, Tamar - Paramount
Sent: Wed Oct 03 08:46:33 2007
Subject: RE: Geek Giftst

Sure thing! I can head to kinkos as soon as we have the clip and it is encoded.

-----Original Message-----

From: Powell, Amy - Paramount
Sent: Wednesday, October 03, 2007 8:45 AM
To: Wahtera, Megan - Paramount; Teifeld, Tamar - Paramount
Subject: Re: Geek Giftst

I'm actually thinking we should do it before friday

----- Original Message -----

From: Wahtera, Megan - Paramount
To: Powell, Amy - Paramount; Teifeld, Tamar - Paramount
Sent: Wed Oct 03 08:43:20 2007
Subject: RE: Geek Giftst

Sure, sounds great. We should call youtube right away though to ensure that they can manually slot the sex video

into "related videos" for us asap.

The related vids pull up through some sort of system within youtube and often take a while to index as "related" J
Hopefully that makes sense...

From: Powell, Amy - Paramount
Sent: Tuesday, October 02, 2007 8:53 PM
To: Teifeld, Tamar - Paramount
Cc: Wahtera, Megan - Paramount
Subject: RE: Geek Giftst

that was EXACTLY what i was thinking! i think we use our spot as a tease into the r-rated clip...

MW: what do you think?

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 8:52 PM
To: Powell, Amy - Paramount
Subject: RE: Geek Gifts

We may have to go with you tube. The only other sites I know with age gate are AOL and IGN. Could we somehow tie it into our HP promo on you tube – like when you watch P's intro and then the regular clip, and on the right hand side where it shows "related videos" we could have the sex scene vid?

From: Powell, Amy - Paramount
Sent: Tuesday, October 02, 2007 8:48 PM
To: Teifeld, Tamar - Paramount
Subject: RE: Geek Gifts

i think we're all desperate too!

where should we post behind age-gate?

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 8:47 PM
To: Powell, Amy - Paramount
Subject: RE: Geek Gifts

Nice! Peter is very convincing.....haha.

From: Powell, Amy - Paramount
Sent: Tuesday, October 02, 2007 8:46 PM
To: Teifeld, Tamar - Paramount
Subject: RE: Geek Gifts

p.s. stacey is going to give in on the sex scene i think...

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 8:45 PM
To: Powell, Amy - Paramount
Subject: RE: Geek Gifts

Got it – I'll think of something.

From: Powell, Amy - Paramount
Sent: Tuesday, October 02, 2007 8:44 PM
To: Teifeld, Tamar - Paramount
Subject: RE: Geek Gifts

i don't think we can give them a first screening and since SS has had stalker issues before i feel like it's better if it's a tangible item...

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 8:31 PM
To: Powell, Amy - Paramount
Subject: FW: Geek Gifts

Think we could do a special "first" screening for them at Amblin? Or should we stay away from anything having to do with first looks at the film?

-----Original Message-----

From: Worsnup, Mickey - Paramount
Sent: Tuesday, October 02, 2007 7:21 PM
To: Teifeld, Tamar - Paramount
Subject: RE: Geek Gifts

promise them access to the first available screening, like not after Harry...although that would piss off my guy...

-----Original Message-----

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 7:18 PM
To: Worsnup, Mickey - Paramount
Subject: RE: Geek Gifts

Big love. I wanted to get them on the set of Indy, but Amy said that prob wouldn't happen.

-----Original Message-----

From: Worsnup, Mickey - Paramount
Sent: Tuesday, October 02, 2007 7:18 PM
To: Teifeld, Tamar - Paramount
Subject: RE: Geek Gifts

what is the level of love you would like to bestow?

-----Original Message-----

From: Teifeld, Tamar - Paramount
Sent: Tue 10/2/2007 7:17 PM

To: Worsnup, Mickey - Paramount
Subject: Geek Gifts

We want to get something really great for Robert at IESB and the other webmaster for helping us in our Indy sting operation. Any clue as to what would be cool?

Schapiro Exhibit 49

From: "Wahtera, Megan - Paramount" <Megan_Wahtera@Paramount.com>
Date: Thu, 4 Oct 2007 08:43:17 -0700
To: "Teifeld, Tamar - Paramount" <Tamar_Teifeld@Paramount.com>, "
Powell, Amy - Paramount" [REDACTED]
Subject: RE: HBK - Farrelly Clips - For Youtube

Hi Amy & Tamar,

I have to send youtube our video link by noon today.

That said, I am personally thinking it's fine to upload it from here via the paraccount (or I can make one up so its less obvious) given there is nothing under the radar about this clip.

The clip is one from the EPK, and will be featured on the homepage of youtube tomorrow with our corresponding ad unit and Farrelly intro. The clip has already been up on Yahoo! sans intro.

Let me know your thoughts, otherwise I have to head to Kinko's asap!

Thanks!
Megan

-----Original Message-----

From: Teifeld, Tamar - Paramount
Sent: Wednesday, October 03, 2007 4:50 PM
To: Wahtera, Megan - Paramount; Powell, Amy - Paramount
Cc: Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

True - it will be from us anyway and if it is from our account, it will just live with the rest of our trailers.
Amy - what do you think?

-----Original Message-----

From: Wahtera, Megan - Paramount
Sent: Wednesday, October 03, 2007 4:48 PM
To: Teifeld, Tamar - Paramount; Powell, Amy - Paramount
Cc: Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

FYI - this goes with an ad unit on youtube on Friday - so to me, its apparent it's us.

Similar to what you see with Lions for Lambs today.

<http://youtube.com/>

-----Original Message-----

From: Teifeld, Tamar - Paramount
Sent: Wednesday, October 03, 2007 4:47 PM
To: Powell, Amy - Paramount; Wahtera, Megan - Paramount
Cc: Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

Should I have Scott H upload?

-----Original Message-----

From: Powell, Amy - Paramount
Sent: Wednesday, October 03, 2007 4:46 PM
To: Wahtera, Megan - Paramount

Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: Re: HBK - Farrelly Clips

I think it should be from off lot.....

What do you guys think about the tags?

----- Original Message -----

From: Wahtera, Megan - Paramount
To: Wahtera, Megan - Paramount; Powell, Amy - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Sent: Wed Oct 03 16:37:51 2007
Subject: RE: HBK - Farrelly Clips

It's OK to upload this one here from Parracount, correct?

Here are my tags:

The Heartbreak Kid Movie Ben Stiller Carlos Mencia Farrelly Brothers Comedy Funny Clip

From: Wahtera, Megan - Paramount
Sent: Wednesday, October 03, 2007 4:08 PM
To: Powell, Amy - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

On it now!

From: Powell, Amy - Paramount
Sent: Wednesday, October 03, 2007 4:04 PM
To: Wahtera, Megan - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

I say we do it now... gain some traction?

We should be very careful about what tags we use.

And, I'm assuming scott can help us dramatically....

Amy Powell

Senior Vice President

Interactive Marketing

Paramount Pictures

[REDACTED]
From: Wahtera, Megan - Paramount

Sent: Wednesday, October 03, 2007 4:02 PM
To: Powell, Amy - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

We will get myspace one up asap!

Youtube is for our Friday buy - but I can upload now so it's live in advance if you prefer?

Let me know!

From: Powell, Amy - Paramount
Sent: Wednesday, October 03, 2007 3:59 PM
To: Wahtera, Megan - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: RE: HBK - Farrelly Clips

Approved. When can we get live?

Amy Powell

Senior Vice President

Interactive Marketing

Paramount Pictures



From: Wahtera, Megan - Paramount
Sent: Wednesday, October 03, 2007 3:13 PM
To: Powell, Amy - Paramount
Cc: Teifeld, Tamar - Paramount; Worsnup, Mickey - Paramount
Subject: HBK - Farrelly Clips

Hi Amy,

At long last, here are the clips.

These are web friendly versions for filmmakers to review.

http://downloads.paramount.com/mp/heartbreak_kid/myspace_final.mov

http://downloads.paramount.com/mp/heartbreak_kid/youtube_final.mov

These are not the versions I am uploading to YouTube or MySpace.

I have higher quality ones that would take too long for approvers to load which we will use for the actual sites.

Let us know when we can do so - YouTube needs by 12pm tomorrow and MySpace needs asap.

BIG thanks to Mickey for helping us out on this one!!

Thanks!

Megan Wahtera
Executive Director
Interactive Marketing
Paramount Pictures
P: 323.956.8516 | F: 323.862.1101

Schapiro Exhibit 50

Subject: Re: Casting.
From: Kadetsky, Deborah <EX:/O=VIACOM/OU=MTVUSA/CN=RECIPIENTS/CN=USERACCOUNTS/CN=USER/CN=KADETSKD>
To: Perta, Micah
Cc: Date: Fri, 30 Jun 2006 17:04:29 +0000

You can leave it on my chair - I'm in a mtg. Have a fun wknd!!!

-----Original Message-----

From: Perta, Micah
To: Kadetsky, Deborah; Kelly, Kristen; Maxwell, Tony
Sent: Fri Jun 30 12:44:18 2006
Subject: Re: Casting.

I will have a CD to you with the qt compressed as sorensen 3 in 5 minutes!

On 6/30/06 12:43 PM, "Kadetsky, Deborah" <Deborah.Kadetsky@vh1staff.com> wrote:

> Just watched it micah, it's great!
>
> <http://www.micahperta.com/vh1/flav.mov>
>
> Just gotta work on getting the file converted to something uploadable to
> our friends at youtube.
>
>
> -----Original Message-----
> From: Perta, Micah
> Sent: Friday, June 30, 2006 12:41 PM
> To: Kelly, Kristen; Kadetsky, Deborah; Maxwell, Tony
> Subject: Casting.
>
> Hey Kristen,
>
> So here is the link to the casting tape cut down. Deliberately made to
> look like it was cut together by a 16 year old, so don't hold me too
> accountable for quality (although the heart transition truly deserves an
> emmy). Nigel and Tony love it, and if you all are OK with it, let Deb
> and us know so that we can start seeding it to utube etc...
>
> Thanks!
>
> Micah
>

Schapiro Exhibit 51

From: "Hallie, Michelena" <Michelena.Hallie@mtvn.com>
Date: Thu, 19 Apr 2007 16:05:18 -0400
To: "Courtney Nieman" <courtneyni@baytsp.com>
Cc: "Solow, Warren" <Warren.Solow@viacom.com>, "Morales, Cindy" <Cindy.Morales@mtvstaff.com>, "Eric Antze" <erica@baytsp.com>
Subject: RE: MTVN Project 2 - Viral Advertising

They should stay up

-----Original Message-----

From: Courtney Nieman [mailto:courtneyni@baytsp.com]
Sent: Thursday, April 19, 2007 2:19 PM
To: Hallie, Michelena
Cc: Solow, Warren; Morales, Cindy; Courtney Nieman; Eric Antze
Subject: MTVN Project 2 - Viral Advertising

Michelena,

I would like to confirm something. Does MTVN want us to take down advertising; clips that are commercials or adverts for programming on MTVN?

Courtney Nieman
Manager Client Services
BayTSP, Inc.
408-341-2314
AIM: BayTSPCanne
Have you checked out BayTSP's Piracy news web log?
<http://www.baytsp.com/weblog>

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.

Schapiro Exhibit 52

Subject: Re: Fw: Flags of our Fathers
From: "Teifeld, Tamar" <EX:/O=VIACOM/OU=PARAMOUNT/CN=RECIPIENTS/CN=TEIFELTA>
To: Powell, Amy - Paramount
Cc: Worsnup, Mickey
Date: Mon, 16 Oct 2006 17:11:12 +0000

Yes. These clips are from the EPK.

----- Replied by Tamar Teifeld on 10/16/2006 10:09:43 AM

From: Amy Powell

10/15/2006 08:32 AM
To: tamar_teifeld@paramount.com, mickey_worsnup@paramount.com
cc:
Subject: Fw: Flags of our Fathers

is this one of our approved clips?

<http://www.youtube.com/watch?v=TkswonjOmVQ>

Schapiro Exhibit 53

To: chad@youtube.com <chad@youtube.com>; steve@youtube.com
<steve@youtube.com>; julie@youtube.com <julie@youtube.com>; kevin@youtube.com
<kevin@youtube.com>; maryrose@youtube.com <maryrose@youtube.com>; heather@youtube.com
<heather@youtube.com>
From: julie@youtube.com <julie@youtube.com>
Cc:
Bcc:
Received Date: 2006-03-09 06:12:01 CST
Subject: Do you YouTube? and Fox Show

Did you guys see this one? This is exactly why we don't really know who is uploading the content...I haven't seen this video

Fox Steals From Itself
ContactMusic - Mar 08 10:44 AM
FOX STEALS FROM ITSELF

While other networks have been firing off legal notices to the video website YouTube.com demanding that they remove content from their programming, Fox on Friday uploaded a live version of the opening title sequence of The Simpsons to the site, in which human characters mimic the actions of the animated ones. The Los Angeles Times blog "Channel Island" reported that the clip was produced by the U.K. ad agency Devilfish and was designed to promote the upcoming 17th season of the series on Sky One, Fox's corporate sibling in Britain. The clip was quickly picked up by other websites, becoming what a studio spokeswoman described as "a viral campaign," adding, "It's amazing how quickly it went around the world."

08/03/2006

Our story in the Sacramento Bee is set to be in next Sunday's paper in Sacramento. They are calling all users to chime in...kinda cool!

<http://www.sacbee.com/content/lifestyle/story/14226604p-15050594c.html>
Call to Readers: Do you youtube?

Published 2:15 am PST Tuesday, March 7, 2006
Story appeared in Scene section, Page E3
We're looking for people who frequent youtube.com, the amateur video-sharing Web site that some say is the hottest way to waste time since MySpace.
If you upload videos to the site or just like to watch them, we'd like to hear from you. Please e-mail smcmanis@sacbee.com, and include a daytime phone number. Your comments may be used in an upcoming story.

Schapiro Exhibit 54

From: Michelena.hallie@mtvn.com
Sent: Tuesday, October 31, 2006 5:15 PM
To: Deana Arizala
Cc: Morales, Cindy; Mark M. Ishikawa; Evelyn Espinosa; Courtney Nieman
Subject: Re: Fwd: Viral Internet Marketing Clips

Got it. We should be able to authorize you to search a list soon

-----Original Message-----

From: Deana Arizala <deanaa@baytsp.com>
To: Hallie, Michelena
CC: Morales, Cindy; Mark M. Ishikawa <marki@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Courtney Nieman <courtneyni@baytsp.com>
Sent: Tue Oct 31 12:11:05 2006
Subject: Fwd: Viral Internet Marketing Clips

Michelena,

I'm not sure if you received the email below, so just in case I am going to forward it.

Best Regards,

Deana Arizala

Deana Arizala
Client Services Manager, BayTSP, Inc
408.341.2365 (direct)
408.341.2300 (voice)
408.341.2399 (fax)

From: Deana Arizala
Sent: Monday, October 30, 2006 10:09 AM
To: Michelena.hallie@mtvn.com
Cc: Morales, Cindy; Mark M. Ishikawa; Evelyn Espinosa; Courtney Nieman
Subject: RE: Viral Internet Marketing Clips

6/11/2008

Michelena,

Below is a list of VH1 shows I'm gathered from the links below. I do not have these shows in my list. Please let me know if these titles should be added in Cims.

VH1

The Wendy Williams Experience

Totally Awesome

Flavor of Love

Hogan Knows Best

Freestyle 59

Thanks Michelena.

Best Regards,

Deana Arizala

Deana Arizala

Client Services Manager, BayTSP, Inc

408.341.2365 (direct)

408.341.2300 (voice)

408.341.2399 (fax)

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 001093409

-----Original Message-----

From: Michelena.hallie@mtvn.com
Sent: Friday, October 27, 2006 3:23 PM
To: Deana Arizala
Cc: Morales, Cindy
Subject: FW: Viral Internet Marketing Clips

Is this sufficient information? If so, you can now take down VH1 clips

2 1/2 minutes or over, other than those noted below.

-----Original Message-----

From: Kadetsky, Deborah
Sent: Friday, October 27, 2006 6:07 PM
To: Cheeks, George; Maxwell, Tony
Cc: Wilson, Adam; Hallie, Michelena; Imm, Tina
Subject: RE: Viral Internet Marketing Clips

George, are you able to do your sweep of clips according to who's posted them?

If that is the case, the clips that we've authorized to be posted are under the usernames "vh1staff" and "reaction2006"

If you need specific links, here is a list of what we've posted as approved clips to date:

<http://www.youtube.com/watch?v=qVVGT7Rfrvk>

<http://www.youtube.com/watch?v=jFoQNdwaGys>

http://www.youtube.com/watch?v=_5vjL2stAz0

http://www.youtube.com/watch?v=M-G_NQZb1II

<http://www.youtube.com/watch?v=qvUzUOSbs9Y>

<http://www.youtube.com/watch?v=xPfTPn-eGKk>

<http://www.youtube.com/watch?v=3saVMo96328>

<http://www.youtube.com/watch?v=PjiZqOOAipw>

<http://www.youtube.com/watch?v=x1ycbHjePjM>

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 001093410

<http://www.youtube.com/watch?v=hFoCygnKOaA>

<http://www.youtube.com/watch?v=4CtHP6Ut-zM>

<http://www.youtube.com/watch?v=Dy9lYAEElqE>

<http://www.youtube.com/watch?v=kihSHIoW-Tg>

http://www.youtube.com/watch?v=yZ1SEDh_JPc

http://www.youtube.com/watch?v=ia_p16rVg_k

<http://www.youtube.com/watch?v=zlbL-zhMK8k>

<http://www.youtube.com/watch?v=ynJmXSht2jI>

<http://www.youtube.com/watch?v=uXnx5QxpIRc>

<http://www.youtube.com/watch?v=zgB11BKpwjQ>

http://www.youtube.com/watch?v=pAkp_Hr5rN4

<http://www.youtube.com/watch?v=BRbM2qfD08U>

<http://www.youtube.com/watch?v=QQxyhtYk3CI>

Do you have a sense of how frequently we'll be doing this takedown sweep? I want to make sure than any future postings through our current process don't get removed accidentally.

Thanks,

deb

-----Original Message-----

From: Cheeks, George

Sent: Friday, October 27, 2006 1:33 PM

To: Kadetsky, Deborah; Maxwell, Tony

Cc: Wilson, Adam

Subject: Re: Viral Internet Marketing Clips

If you could send a copy directly to Michelina Hallie and copy me that would be great!

-----Original Message-----

From: Kadetsky, Deborah

6/11/2008

BAYTSP 001093411

To: Cheeks, George; Maxwell, Tony
CC: Wilson, Adam
Sent: Fri Oct 27 09:48:26 2006
Subject: RE: Viral Internet Marketing Clips

Hi George,

Did you get my list via Tina Imm? I can send to you directly if not...

Deb

-----Original Message-----

From: Cheeks, George
Sent: Friday, October 27, 2006 8:47 AM
To: Maxwell, Tony
Cc: Wilson, Adam; Kadetsky, Deborah
Subject: Re: Viral Internet Marketing Clips

We need everything that you have seeded thusfar as we are engaging an outside service to send take down notices for full episodes and clips in excess of 2 minutes and 30 seconds and we don't want to have notices sent for content we seeded. That said, if that is too big a task I would at least hit the stuff that we seeded over the past several months.

Thanks.

-----Original Message-----

From: Maxwell, Tony
To: Cheeks, George
Cc: Wilson, Adam; Kadetsky, Deborah
Sent: Wed Oct 25 11:10:26 2006
Subject: Viral Internet Marketing Clips

Hello George,

6/11/2008

Nigel asked me to follow up with you about your request for a list of viral clips we are currently supplying to websites like youtube.com. Are you looking for a monthly figure or total amount since a certain date.

Please inform.

Many thanks,

Tony

--

Tony Maxwell
VP VH1 On Air Promotions
212-846-7867
tony.maxwell@vh1staff.com

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 001093413

Schapiro Exhibit 55

From: Michelena.hallie@mtvn.com
Sent: Saturday, November 04, 2006 11:59 AM
To: Mark M. Ishikawa; Evelyn Espinosa; Deana Arizala
Subject: Fw: Video Takedown

Just want to make sure this directive got to you: google as well as youtube takedowns should only be full episodes. Myspace and yahoo are ok to take down as originally directed.

-----Original Message-----

From: Cahan, Adam
To: Hallie, Michelena
Sent: Sat Nov 04 02:55:11 2006
Subject: Fw: Video Takedown

We should still be taking down as much as possible at myspace. It's only google/youtube that has the full episode rule.

-----Original Message-----

From: Deana Arizala <deanaa@baytsp.com>
To: Hallie, Michelena
CC: Courtney Nieman <courtneyni@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Mark M. Ishikawa <marki@baytsp.com>; Cahan, Adam
Sent: Fri Nov 03 21:16:07 2006
Subject: Video Takedown

Michelena,

Below are the Notice Sent counts for today, November 3, 2006. Have a good weekend.

Best Regards,

Deana Arizala

Summary:

YouTube: Full Episodes: 149

Myspace: Full Episodes: 23

Yahoo Video: Full Episodes: 0

Google Video: Full Episodes: 115

P2P: Gnutella: 0, eDonkey: 44 (not sent—just for view)

6/11/2008

YouTube

Full Episodes

Country Music Television

Count

CMT Music Awards

0

Country Fired Home Videos

0

Crossroads

0

Foxwothy's Big Night Out

0

Trick My Truck

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724705

Comedy Central

South Park

21

The Colbert Report

5

The Daily Show

1

SpikeTV

Carpocalypse

0

King of Vegas

0

Most Xtreme Challenge

0

Pros Vs Joes

0

Total Nonstop Action

0

6/11/2008

Ultimate Fighting Championship

0

Viacom

Andy Milonakis

0

Avatar the Last Airbender

96

Backyardigans

0

Beyond the Break

0

Blue's Room

0

Can't Get A Date

0

Degrassi

6

Diego

6/11/2008

0

Dora The Explorer

0

Drake & Josh

15

Fairly Odd Parents

5

GLAAD Media Awards

0

Greatest TV Quotes and Catch Phrases

0

Hi-Jinks

0

I Pity the Fool

0

Jack's Big Music Show

0

Laguna Beach

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724708

Naked Brothers Band

0

Noah's Arc

3

Real World

0

Sit Down Comedy with David Steinberg

0

South of Nowhere

0

Spongebob Squarepants

3

TV Land Myths and Legends

0

TV Land Present the 100

0

VMA Awards

0

Wonder Pets

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724709

Zoey 101

0

Total

149

Google Video

Full Episodes

Country Music Television

Count

CMT Music Awards

0

6/11/2008

Country Fired Home Videos

0

Crossroads

0

Foxwothy's Big Night Out

0

Trick My Truck

0

Comedy Central

South Park

0

The Colbert Report

0

The Daily Show

4

SpikeTV

Carpocalypse

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724711

0

King of Vegas

0

Most Xtreme Challenge

0

Pros Vs Joes

0

Total Nonstop Action

0

Ultimate Fighting Championship

2

Viacom

Andy Milonakis

0

Avatar the Last Airbender

67

Backyardigans

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724712

Beyond the Break

0

Blue's Room

0

Can't Get A Date

0

Degrassi

0

Diego

0

Dora The Explorer

0

Drake & Josh

0

Fairly Odd Parents

1

GLAAD Media Awards

0

Greatest TV Quotes and Catch Phrases

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724713

Hi-Jinks

0

I Pity the Fool

0

Jack's Big Music Show

0

Laguna Beach

11

Naked Brothers Band

0

Noah's Arc

0

Real World

0

Sit Down Comedy with David Steinberg

0

South of Nowhere

10

Spongebob Squarepants

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724714

20

TV Land Myths and Legends

0

TV Land Present the 100

0

VMA Awards

0

Wonder Pets

0

Zoey 101

0

Total

115

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724715

Yahoo Video

Clips

Full Episodes

Country Music Television

Count

CMT Music Awards

0

Country Fired Home Videos

0

Crossroads

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724716

Foxwothy's Big Night Out

0

Trick My Truck

0

Comedy Central

South Park

0

The Colbert Report

0

The Daily Show

0

SpikeTV

Carpocalypse

0

King of Vegas

0

Most Xtreme Challenge

0

6/11/2008

Pros Vs Joes

0

Total Nonstop Action

0

Ultimate Fighting Championship

0

Viacom

Andy Milonakis

0

Avatar the Last Airbender

0

Backyardigans

0

Beyond the Break

0

Bluc's Room

0

Can't Get A Date

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724718

0

Degrassi

0

Diego

0

Dora The Explorer

0

Drake & Josh

0

Fairly Odd Parents

0

GLAAD Media Awards

0

Greatest TV Quotes and Catch Phrases

0

Hi-Jinks

0

I Pity the Fool

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724719

Jack's Big Music Show

0

Laguna Beach

0

Naked Brothers Band

0

Noah's Arc

0

Real World

0

Sit Down Comedy with David Steinberg

0

South of Nowhere

0

Spongebob Squarepants

0

TV Land Myths and Legends

0

TV Land Present the 100

0

6/11/2008

VMA Awards

0

Wonder Pets

0

Zoey 101

0

Total

0

MySpace

Full Episodes

Country Music Television

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724721

Count

CMT Music Awards

0

Country Fired Home Videos

0

Crossroads

0

Foxwothy's Big Night Out

0

Trick My Truck

0

Comedy Central

South Park

0

The Colbert Report

0

The Daily Show

0

SpikeTV

6/11/2008

Carpocalypse

0

King of Vegas

0

Most Xtreme Challenge

0

Pros Vs Joes

0

Total Nonstop Action

0

Ultimate Fighting Championship

0

Viacom

Andy Milonakis

0

Avatar the Last Airbender

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724723

Backyardigans

0

Beyond the Break

0

Blue's Room

0

Can't Get A Date

0

Degrassi

0

Diego

0

Dora The Explorer

0

Drake & Josh

0

Fairly Odd Parents

2

GLAAD Media Awards

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724724

0

Greatest TV Quotes and Catch Phrases

0

Hi-Jinks

0

I Pity the Fool

0

Jack's Big Music Show

0

Laguna Beach

0

Naked Brothers Band

0

Noah's Arc

0

Real World

0

Sit Down Comedy with David Steinberg

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724725

South of Nowhere

10

Spongebob Squarepants

11

TV Land Myths and Legends

0

TV Land Present the 100

0

VMA Awards

0

Wonder Pets

0

Zoey 101

0

Total

23

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724726

P2P (Not sent)

Country Music Television

Gnutella

eDonkey

CMT Music Awards

0

0

Country Fired Home Videos

0

0

Crossroads

0

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724727

Foxwothy's Big Night Out

0

0

Trick My Truck

0

0

Comedy Central

South Park

0

0

The Colbert Report

0

0

The Daily Show

0

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724728

SpikeTV

Carpocalypse

0

0

King of Vegas

0

0

Most Xtreme Challenge

0

0

Pros Vs Joes

0

0

Total Nonstop Action

0

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724729

Ultimate Fighting Championship

0

0

Viacom

Andy Milonakis

0

0

Avatar the Last Airbender

0

0

Backyardigans

0

2

Beyond the Break

0

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724730

Blue's Room

0

0

Can't Get A Date

0

0

Degrassi

0

0

Diego

0

0

Dora The Explorer

0

0

Drake & Josh

0

0

Fairly Odd Parents

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724731

0

0

GLAAD Media Awards

0

0

Greatest TV Quotes and Catch Phrases

0

0

Hi-Jinks

0

0

I Pity the Fool

0

0

Jack's Big Music Show

0

0

Laguna Beach

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724732

0

Naked Brothers Band

0

0

Noah's Arc

0

0

Real World

0

0

Sit Down Comedy with David Steinberg

0

0

South of Nowhere

0

0

Spongebob Squarepants

0

0

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724733

Hogan Knows Best

0

41

Breaking Bonaduce

0

1

VMA Awards

0

0

Wonder Pets

0

0

Zoey 101

0

0

Total

0

44

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724734

Deana Arizala
Client Services Manager, BayTSP, Inc
408.341.2365 (direct)
408.341.2300 (voice)
408.341.2399 (fax)

6/11/2008

HIGHLY CONFIDENTIAL

BAYTSP 003724735

Schapiro Exhibit 56

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

-----X
VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,
vs. No. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

-----X
THE FOOTBALL ASSOCIATION PREMIER
LEAGUE LIMITED, BOURNE CO., et al.,
on behalf of themselves and
all others similarly situated,

Plaintiffs,
vs. No. 07-CV-3582

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

-----X
HIGHLY CONFIDENTIAL
VIDEOTAPED DEPOSITION OF ADAM CAHAN
PALO ALTO, CALIFORNIA
WEDNESDAY, DECEMBER 9, 2009
JOB NO. 18174

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009
2

3 9:47 A.M.
4

5 HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF ADAM
6 CAHAN, at WILSON SONSINI GOODRICH & ROSATI, 601 S.
7 California Street, Palo Alto, California, pursuant to
8 notice, before me, KATHERINE E. LAUSTER, CLR, CRR, RPR,
9 CSR License No. 1894.

10
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22
23
24
25

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009

2 A P P E A R A N C E S:

3 FOR THE PLAINTIFFS, VIACOM INTERNATIONAL, INC., and
the WITNESS:

4 JENNER & BLOCK, LLP
5 By: SUSAN J. KOHLMANN, ESQ.
919 Third Avenue
6 37th Floor
New York, New York 10022-39908
7 T.212.891.1690
F.212.909.0821
8 skohlmann@jenner.com

9
10 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC, and
GOOGLE, INC.:

11 WILSON, SONSINI, GOODRICH & ROSATI
12 By: DAVE KRAMER, ESQ.
CAROLINE WILSON, ESQ.
13 650 Page Mill Road
Palo Alto, California 94304-1050
14 T.650.493.9300
F.650.565.5100
15 dkramer@wsgr.com
cwilson@wsgr.com

16
17 FOR THE WITNESS, ADAM CAHAN:

18 SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP
19 BY: P. CRAIG CARDON, ESQ.
1901 Avenue of the Stars
Suite 1600
20 Los Angeles, California 90067-6017
Telephone: 310.228.3700
21 Fax: 310.228.3701
ccardon@sheppardmullin.com

22
23
24 Also Present: ARMANDO CARRASCO, Videographer

25

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009
2 15:02:33 has the full episode. I'm asking for her -- if
3 15:02:35 that's what we're currently doing.
4 15:02:37 BY MR. KRAMER:
5 15:02:38 Q. Where is the question in that, sir, in
6 15:02:40 what you wrote?
7 15:02:41 A. It's lacking a question mark. I'm looking
8 15:02:43 for confirmation that that's what we're currently
9 15:02:47 doing.
10 15:02:47 Q. So you read "we should still be taking
11 15:02:50 down as much as possible -- as possible at MySpace"
12 15:02:52 as an inquiry?
13 15:02:54 A. No, I -- so I am writing to confirm, is
14 15:02:56 this your understanding of what we're doing; right?
15 15:02:58 We should still be taking down as much as
16 15:03:04 possible at MySpace. It's only the Google/YouTube
17 15:03:08 that has the full episode --
18 15:03:09 THE REPORTER: Please slow down.
19 15:03:09 THE WITNESS: Sorry.
20 15:03:09 It's only the Google/YouTube that has the
21 15:03:09 full episode rule, and what I am seeking is
22 15:03:12 confirmation.
23 15:03:12 BY MR. KRAMER:
24 15:03:13 Q. So at this time, in early Nov- -- where
25 15:03:15 was the seeking of the confirmation?

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009

2 15:03:27 A. It's me saying that we should still be

3 15:03:32 taking down as much as MySpace. I don't perceive

4 15:03:36 this as -- so what I -- what I view this, in my

5 15:03:39 communication with Michelena, is I did not tell her

6 15:03:43 what should or should not be removed.

7 15:03:45 I believe at this point I'm asking her

8 15:03:49 that we should not be doing that because of what was

9 15:03:53 going on.

10 15:03:55 Q. So Miss Hallie characterizes it as a

11 15:03:58 directive.

12 15:03:59 A. Okay.

13 15:04:00 Q. She interpreted it as a directive; right?

14 15:04:03 Isn't that how you read that?

15 15:04:05 MR. CARDON: Objection --

16 15:04:06 MS. KOHLMANN: Objection.

17 15:04:06 MR. CARDON: -- misstates the testimony --

18 15:04:08 argument.

19 15:04:12 THE WITNESS: Yeah, I don't know how -- I

20 15:04:14 don't know how she's interpreting this. What --

21 15:04:16 again, I think what I'm -- at this point in the

22 15:04:21 negotiation I was asking that they not remove

23 15:04:22 additional content. That is correct.

24 15:04:24 BY MR. KRAMER:

25 15:04:25 Q. So it was your intent that clips of

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009
2 15:04:28 content that Viacom claimed to own on YouTube that
3 15:04:32 were anything other than an entire episode of a
4 15:04:35 television show be allowed to remain on YouTube at
5 15:04:39 this time; right?
6 15:04:40 A. At that time, yes.
7 15:04:41 Q. Was that because you wanted additional
8 15:04:43 clips to remain on the service so that Viacom could
9 15:04:46 use their presence as leverage in the negotiations
10 15:04:50 with Google?
11 15:04:51 A. It was because I wanted to get paid for
12 15:04:54 them, and my -- my feeling was that once they were
13 15:04:56 removed, that they would no longer be able to go
14 15:05:00 back.
15 15:05:00 Q. In contrast to the full episode rule that
16 15:05:02 you employed for -- that you instructed Viacom
17 15:05:06 employ for YouTube, your instructions with respect
18 15:05:09 to MySpace were to take down as much as possible;
19 15:05:12 right?
20 15:05:13 MR. CARDON: Objection, foundation,
21 15:05:14 misstates witness's testimony.
22 15:05:24 THE WITNESS: So --
23 15:05:25 BY MR. KRAMER:
24 15:05:25 Q. I'm just looking at your e-mail to Miss
25 15:05:27 Hallie --

1 ADAM CAHAN SAN FRANCISCO, CA DECEMBER 9, 2009

2 15:05:28 A. Right. And I'm --

3 15:05:28 Q. -- on November 4th.

4 15:05:30 A. I know. I think I'm just trying to

5 15:05:31 understand the context, and it looks to me -- it

6 15:05:34 says, "Below are the Notices Sent." And what it has

7 15:05:37 is a list of full episode content that was removed.

8 15:05:41 And what I am stating to her is -- I'm

9 15:05:44 trying to confirm, is this my understanding? We

10 15:05:46 should still be taking down as much as possible at

11 15:05:46 MySpace. It's only Google and YouTube that has this

12 15:05:46 full episode -- sorry.

13 15:05:50 THE REPORTER: Please.

14 15:05:50 THE WITNESS: It's only Google and YouTube

15 15:05:52 that has this full episode rule, and -- because the

16 15:05:55 context of this e-mail says "full episode." And it

17 15:05:59 was my opinion that at that time we should not be

18 15:06:02 removing the content that was there while we were

19 15:06:04 negotiating.

20 15:06:06 BY MR. KRAMER:

21 15:06:06 Q. Why the disparate approaches between

22 15:06:09 taking down as much as possible at MySpace, and

23 15:06:13 taking down only a full episode at YouTube?

24 15:06:18 MR. CARDON: Objection, speculation.

25 15:06:18 THE WITNESS: I was responsible for the